

Office Action Summary

Application No.

10/634,421

Applicant(s)

FISHER ET AL.

Examiner

Robert A. Hopkins

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-25 and 27-32 is/are rejected.
- 7) ☒ Claim(s) 15 and 26 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3-21-05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 8-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Van Abbema(4572726).

Van Abbema teaches a pump for moving a product comprising a separating apparatus(20), a vacuum source(10) for providing a vacuum to the separating apparatus, and a pressure valve apparatus(air lock device not shown; column 4 lines 20-26) for allowing the product to be removed from the separating apparatus. Van Abbema further teaches wherein the separating apparatus is a cyclone separator. Van Abbema further teaches a forced air source(10) for blowing the product out of the pump. Van Abbema further teaches wherein the forced air source is an air pump and the vacuum source is an air pump. Van Abbema further teaches wherein the forced air source and vacuum source are a single air pump. Van Abbema further teaches wherein the pressure valve apparatus is a rotary dump valve.

Examiner notes that claims 9-11 recite an intended use for the pump, but do not further limit the structure of the pump. Van Abbema clearly teaches separating a solid material from an airflow, therefore because the structural limitations of the pump are

Art Unit: 1724

anticipated by Van Abbema, it is anticipated that the pump is also adapted to pump a wine product, wine must, and wine pomace.

Claims 12-14, 18, and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Van Abbema(4572726).

Van Abbema teaches a wine must pump for pumping a wine product comprising, a separator(20) for separating wine product from air, a vacuum source(10) for drawing the wine product into the separator, a valve apparatus (air lock device not shown; column 4 lines 20-26) for allowing the wine product to fall out of the separator into a depository(14), and a compressed air source(10) for blowing the wine product out of the wine must pump. Van Abbema further teaches wherein the vacuum source and the compressed air source are an air pump, wherein at least some of the air drawn out of the separator is used to blow the wine product out of the wine must pump. Van Abbema further teaches wherein the separator is a cyclone separator. Van Abbema further teaches an in line silencer(30) for reducing noise from caused by air exiting the separator.

Examiner notes claim 12 recite structural limitations for a "pump", and therefore because Van Abbema clearly teaches separating a solid material from an airflow, it is anticipated that the pump is clearly capable of separating a wine product from an airflow.

Claim 30 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Van Abbema(4572726).

Van Abbema teaches a method for moving a product comprising drawing the product into a chamber(20) via vacuum(10), drawing gasses from the chamber(outlet duct 13) via vacuum to separate the gasses from the product, and pushing the product from the chamber(outlet duct 12) via compressed gasses(from vacuum 10).

Claim 31 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Van Abbema(4572726).

Van Abbema teaches a pump comprising means(10) for drawing a product and gas mixture into a chamber(20), means(20) for separating the product from the gas, and means(10) for removing the product from the chamber.

Claim 32 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Van Abbema(4572726).

Van Abbema teaches a pump comprising a chamber(20), an inlet port(11) coupled to the chamber to facilitate the flow of product into the chamber, an outlet port for discharging the product from the pump, a vacuum port(13) coupled to the chamber, a vacuum source(10) coupled to the vacuum port to provide a negative pressure in the chamber, whereby the product can be drawn into the chamber through the inlet port, a pressurized gas source(10), and a mixing valve(air lock device not shown; column 4 lines 20-26) coupled to the chamber, the outlet port, and the pressurized gas source, whereby the product can be pushed out the outlet port by the pressurized gas(column 4 lines 45-47).

Claims 1,3,4 and 8-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sisk(5053063).

Art Unit: 1724

Sisk teaches a pump for moving a product comprising a separating apparatus(9), a vacuum source(114) for providing a vacuum to the separating apparatus, and a pressure valve apparatus(63) for allowing the product to be removed from the separating apparatus. Sisk further teaches a forced air source(67) for blowing the product out of the pump. Sisk further teaches wherein the forced air source is an air pump and the vacuum source is an air pump. Sisk further teaches wherein the pressure valve apparatus is a rotary dump valve.

Examiner notes that claims 9-11 recite an intended use for the pump, but do not further limit the structure of the pump. Sisk clearly teaches separating a solid material from an airflow, therefore because the structural limitations of the pump are anticipated by Sisk, it is anticipated that the pump is also adapted to pump a wine product, wine must, and wine pomace.

Claims 12,13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sisk(5053063).

Sisk teaches a wine must pump for pumping a wine product comprising, a separator(9) for separating wine product from air, a vacuum source(114) for drawing the wine product into the separator, a valve apparatus (63) for allowing the wine product to fall out of the separator into a depository(65), and a compressed air source(67) for blowing the wine product out of the wine must pump. Sisk further teaches wherein the vacuum source and the compressed air source are an air pump.

Claim 30 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Van Sisk(5053063)

Sisk teaches a method for moving a product comprising drawing the product into a chamber(9) via vacuum(114), drawing gasses from the chamber(outlet duct 59) via vacuum to separate the gasses from the product, and pushing the product from the chamber(outlet duct 57) via compressed gasses(from pneumatic valve 67).

Claim 31 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Van Sisk(5053063).

Sisk teaches a pump comprising means(114) for drawing a product and gas mixture into a chamber(9), means(29) for separating the product from the gas, and means(67) for removing the product from the chamber.

Claim 32 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Van Sisk(5053063).

Sisk teaches a pump comprising a chamber(9), an inlet port(53) coupled to the chamber to facilitate the flow of product into the chamber, an outlet port for discharging the product from the pump, a vacuum port(55) coupled to the chamber, a vacuum source(114) coupled to the vacuum port to provide a negative pressure in the chamber, whereby the product can be drawn into the chamber through the inlet port, a pressurized gas source(67), and a mixing valve(63) coupled to the chamber, the outlet port, and the pressurized gas source, whereby the product can be pushed out the outlet port by the pressurized gas(column 9 lines 66-68, column 10 lines 1-10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1724

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-25 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koehn(3303638) taken together with Van Abbema(4572726).

Koehn teaches a method for moving a wine product comprising applying a suction(vacuum tank 2) to a separator(43) to draw the wine product(grapes or berries) into the separator, removing the wine product from the separator into a depository(suitable closed collecting tank; column 6 lines 41-47). Koehn is silent as to blowing the wine product from the depository. Van Abbema teaches a method for moving a product comprising applying a suction(10) to a separator(20) to draw the product into the separator, removing the product from the separator into a depository(14), and blowing the product from the depository. It would have been obvious to someone of ordinary skill in the art at the time of the invention to provide a step of blowing the product of Koehn from the depository so that the product moves efficiently to a desired location and is not reentrained with the airflow in the separator.

Claims 6,7,16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Abbema(4572726).

Van Abbema teaches all of the limitations of claims 6,7,16, and 17 but is silent as to a cooling apparatus and demister. Cooling apparatus and demisters are common structures for use with a cyclone separator, therefore it would have been obvious to someone of ordinary skill in the art at the time of the invention to provide a cooling apparatus to decrease the temperature of the airflow from the forced air source(10), and

a demister for removing moisture from an airflow when the airflow includes a source of liquid.

Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Abbema(4572726) taken together with Lane et al(2005/0000581).

Van Abbema teaches all of the limitations of claim 20 but is silent as to a silencer for reducing noise from the compressed air source. Lane et al teaches a blower(26), a silencer(24) connected to the inlet of the blower, and a silencer(28) connected to the outlet of the blower. It would have been obvious to someone of ordinary skill in the art at the time of the invention to provide a silencer connected to the compressed air source of Van Abbema for reducing noise from the compressed air source at the inlet and the outlet.

Allowable Subject Matter

Claims 15 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 15 recites "wherein: the wine product drops out of the depository into a mixing valve; and air from the compressed air source blows the wine product out of the mixing valve". Both Van Abbema and Sisk teach a single valve in connection with a depository. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a valve apparatus for allowing the wine product to fall out of a separator into a depository and a mixing valve , wherein air from the

Art Unit: 1724

compressed air source blows the wine product out of the mixing valve because neither Van Abbema nor Sisk suggests such a modification.

Claim 26 recites "wherein the wine product falls from the depository into a mixing valve; the wine product is mixed with compressed air in the mixing valve; and the wine product is forced out of the mixing valve by the force of compressed air". Van Abbema and Koehn fails to teach a step where a product falls from a depository into a mixing valve. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a step of where a product falls from a depository into a mixing valve because neither Van Abbema nor Koehn suggests such a modification.

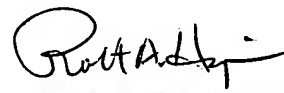
Art Unit: 1724

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Hopkins whose telephone number is 571-272-1159. The examiner can normally be reached on Monday-Friday, 7am-4pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rah
April 7, 2005


ROBERT A. HOPKINS
PRIMARY EXAMINER
A.U. 1724